



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Owino (Criminal Case E006 of 2025)  
[2026] KEHC 3306 (KLR) (11 March 2026) (Sentence)**

Neutral citation: [2026] KEHC 3306 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VIHIGA  
CRIMINAL CASE E006 OF 2025**

**JN KAMAU, J  
MARCH 11, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOYLAND OWINO ..... ACCUSED**

**SENTENCE**

1. The Accused person herein was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 (Laws of Kenya). He entered into a Plea Bargain Agreement on 24<sup>th</sup> February 2026 whereupon this court convicted him of the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
2. The facts of this case were that on 2<sup>nd</sup> September 2025 at Mulwanda Village, Esiandumba Sub-location, Emasaba Location in Luanda Sub-County within Vihiga County murdered Fredrick Mambwa Ambali. On that material date at about 1600 hours, the Accused person came home from school where he was a boarder after being informed by his siblings that his father, Fredrick Mambwa Ambali (hereinafter referred to as “the deceased”) had sold their household items together with his gumboots. He armed himself with a panga and dragged the deceased out.
3. He assaulted the deceased with a panga in the presence of his siblings and left him lying bleeding. He took the panga to the shop of one Lydia Ayiatta where he found Fauzia Kadeza, a girl aged twelve (12) years and requested her to keep the panga for him and that he would pick it after school. Sarah Ayuma, Washington Nyangira and Edwin Ambale helped the deceased back to the house and left him on the bed. Later, they went to their grandmother’s house where they spent the night.
4. The following day, 3<sup>rd</sup> September 2025, Sarah Ayuma went to check on the deceased and she realised that he was not breathing. She informed her grandmother who also noted that he was unresponsive.



- She raised an alarm and members of the public came. The Accused person's siblings informed them what the Accused person had done the previous day.
5. Members of public went to Uranga Secondary School where the Accused person studied and picked him up. They interrogated him and he took them to the shop of the said Lydia Ayiatta where they recovered the panga that he had used to assault the deceased with. The crowd then asked the said Lydia Ayiatta to accompany them to Luanda Police Station where the incident was reported. Investigations then commenced.
  6. A postmortem examination on the body of the deceased was carried out on 17<sup>th</sup> September 2025. The Pathologist formed the opinion that the cause of the deceased's death was extensive soft tissue injuries secondary to blunt force trauma following assault. The Postmortem Report dated 17<sup>th</sup> September 2025 was produced as Exhibit 1.
  7. Having entered into a Plea Agreement, the Accused person proposed that he serves one (1) year non-custodial sentence while the Prosecution recommended a sentence of three (3) years non-custodial sentence.
  8. In his mitigation, the Accused person expressed remorse for having committed the offence. He said that he regretted and asked this court to consider that he was a first offender. He said that he did not think his actions would lead to the death of the deceased. He averred that he came from a dysfunctional family with a violent environment and had to step up to protect his grandmother whenever the deceased became violent against her.
  9. He said that his father left them when they were young and since then he had assumed the responsibility of taking care of his two (2) siblings. He contended that he used to do manual work to take care of his siblings. The extended family saw him as the only hope to continue his father's lineage.
  10. He said that he was disciplined and was a school prefect and that his performance and discipline had seen him continue with school despite the financial difficulties. He explained that he was undergoing counselling and was currently under his Aunt. He asked this court to exercise leniency and give him a second chance to take care of his siblings as their grandmother was elderly. He pointed out that the Probation Report was positive and urged this court to mete out on him a non-custodial sentence.
  11. On its part, the Prosecution asked this court to consider the mitigating facts of the Accused person and the Victim Impact Statement and mete out on the Accused person a sentence that was commensurate to the offence.
  12. According to the Pre-Sentence Report of J. Sahani, Probation Officer, Vihiga County that was dated and filed 2<sup>nd</sup> December 2025, the Accused person was aged nineteen (19) years having been born on 25<sup>th</sup> November 2005. He attended Gingavale Primary School after his mother left the matrimonial home after frequent quarrels and fights with the deceased and relocated to Gingavale, Siaya County where she got married. After her mother left her husband and remarried, he returned to his paternal home at Esiandumba. He was an adolescent by then.
  13. The deceased became an alcoholic, violent and hopeless as a result of which the Accused person's grandmother assumed responsibility for his upbringing and enrolled him at Oranga Secondary School. When he reached Form Two (2), he started facing financial difficulties leading him to be absent from school. However, due to his good discipline, good performance in school and participation in the school football team, he was allowed to continue with school even without paying school fees. His grandmother took care of his personal effects. This scenario persisted until the incident herein when



he was preparing to sit for his Kenya Certificate of Secondary Education (KCSE) which he completed on 21<sup>st</sup> November 2025 without any disciplinary issues in school.

14. His relationship with the deceased was strained. He always stood up against the deceased to protect his grandmother and younger siblings from the violence by the deceased. His grandmother and extended family hailed him for his stand.
15. On the material day, the Accused person was said to have gone home to calm the situation after the deceased sold the items to purchase alcohol. In a drunken state, the deceased charged at him with a panga. The Accused person slapped him with the flat side of the panga and left him lying down and returned to school.
16. He was shocked to receive information that the deceased had passed away and opined that he may have had some underlying condition that caused his death. He asserted that he was controlling a volatile situation in which the deceased was violent to his grandmother and siblings. His mother who had since remarried was no longer in contact with them leaving him with the responsibility of taking care of his siblings.
17. The Accused person's grandmother attributed the deceased's death to his misbehaviour and that the deceased would always assault her whenever she confronted him about his alcoholism. She asserted that he lacked respect for her and that it was under those circumstances that the Accused person always stepped in to protect her. She commended the Accused person for having stood up for them and that she was now at rest after the demise of the deceased. She wished him eternal rest.
18. The extended family members also alluded to the deceased's violent behaviour. The Accused person's grandmother and extended family pleaded with this court to be lenient on him. They absolved the Accused person from any wrongdoing and averred that he was academically capable, disciplined and active in co-curricular activities.
19. The immediate neighbours described the Accused person as a person of high integrity. They sympathised with the Accused person's grandmother who also bore the brunt of the violence by the deceased. The Principal of Oranga Secondary School, Ooko Francis, indicated that the Accused person completed his secondary education without any disciplinary issues and that he was calm, respectful and academically capable. He added that the Accused person always topped his class in internal examinations and that it was only once that he dropped to position five (5) due to disturbances at home. He confirmed that the school allowed him to continue with his studies despite the financial challenges that he faced.
20. The said Principal criticised the deceased's parental style and pin pointed one incident when the deceased went to the school while intoxicated and demanded that the Accused person be caned. When the same was not done, the deceased created disturbance and only left after he was threatened with police intervention.
21. The then acting Chief, Festus Amukoa, was not aware of the details of the incident but he knew the family. He had never received any negative reports about the Accused person but stated that the deceased was known in the Village as a drunkard who was provocative and violent. He added that the deceased was always beaten at the Chang'aa dens. He confirmed that the deceased always used to assault his mother, who was the Accused person's grandmother.
22. The local administration and community pleaded for mercy on behalf of the Accused person pointing at his youthfulness, academic promise and the only hope for the family. They indicated that his maternal aunt had undertaken to mentor him.



23. The Probation Officer opined that the Accused person was a first-offender whose actions were shaped by a hostile and violent domestic environment. It pointed out that he had demonstrated academic promise, leadership qualities and positive social conduct. It also noted that he had expressed remorse and had shown potential for rehabilitation. It, therefore, asked this court to exercise leniency on him and give him an opportunity to be rehabilitated so as to continue with his education to secure his future and that of his siblings.
24. It proposed that this court place him on a structured three (3) year community rehabilitation programme. During this period, it would impose probation supervision requiring him to report regularly and demonstrate continued good conduct. It also recommended counselling and psychological support to help him process the trauma of growing up in a dysfunctional family and family reintegration programmes to strengthen the bonds in the family to ensure a stable support system.
25. Notably, sentencing was one of the most intricate aspects of trial. Indeed, a trial does not end unless a sentence has been meted out. The principle of sentencing was fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing were retribution, incapacitation, deterrence, rehabilitation and reparation. The Sentencing Policy Guidelines in Kenya had added community protection and denunciation as sentencing objectives. The objectives were not mutually exclusive and could overlap.
26. It was also important that the sentence communicate to the community, condemnation of his criminal act. The sentence would indirectly send a strong signal to deter would be offenders from committing such an offence. The sentence also had to be one that was hinged on retributive justice for the secondary victims.
27. If the court did not take into account the three (3) objectives of deterrence, retribution and denunciation of his offence at the time of sentencing him, chances of the Accused person being reintegrated in the society would be next to impossible as there were possibilities of being harmed.
28. However, in view of the violence that the deceased had meted out on his mother, the Accused person and siblings, the local administration and community had pleaded for leniency on his behalf. The deceased's mother did not blame the Accused person for the death of the deceased as he was only protecting her and his siblings. The deceased was violent and his own mother, felt relieved that he was dead. This was truly a tragic situation. On the other hand, the Accused person did not expect his father, the deceased herein to die and was, therefore, traumatised.
29. Killing someone was an abomination in the society. However, the circumstances of this incident led this court to agree with the Prosecution, the Accused person, Probation Office, the secondary victims, the extended family members, the local administration and community that the most appropriate sentence in the circumstances of this case was a non-custodial sentence.
30. The Accused person had grown up in a dysfunctional and violent environment, abandoned by his own mother and thrust into responsibilities for his grandmother and siblings while still in school. Still, he was resilient and performed as any other child would in a happy environment. He showed great potential to support his family that had suffered under the watch of the deceased who was a violent man. His own mother was relieved.
31. However, no matter how bad a parent or person was, no one was allowed to take the law into their own hands in the name of punishing the bad parent or person. If this was wished away by the court, it would be justifying lawlessness. It was evident that the Accused person used excessive force to discipline the



deceased. The anger was not worth the trouble. He ought to be given a sentence that would assist him with his anger management.

32. Having considered the facts of this case, the Accused person's mitigation, the Prosecution's response thereto, the Pre-Sentence Report and bearing in mind that sentencing was the sole discretion of the court, this court came to the firm conclusion that a sentence of three (3) years' Probation was suitable and adequate herein purely because the Accused person entered into a Plea Bargain Agreement and bearing in mind the circumstances of the case herein. If the matter had proceeded as a murder case, this court would have meted out on him a stiffer sentence.
33. As he was not been sentenced to a determinate sentence, there was no value in considering the period that he spent in remand while his trial was on going in line with Section 333(2) of the Criminal Procedure Code Cap 75 (Laws of Kenya).

#### **Disposition**

34. Accordingly, it is hereby directed that the Accused person be and is hereby sentenced to three (3) years' Probation to run from the date of this Sentence.
35. It is hereby directed that during the three (3) year Probation period, the Accused person shall undergo counselling and guidance to work on his trauma and anger management issues.
36. It is so ordered.

**DATED AND DELIVERED AT VIHIGA THIS 11<sup>TH</sup> DAY OF MARCH 2026**

**J. KAMAU**

**JUDGE**

